

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROSEMARY WEST-BOWLSON,

Plaintiff,

v

Case No.

Hon.

Magistrate:

Case No. 2014-142883-NZ

Hon. Martha D. Anderson

RANDALL S. MILLER AND ASSOCIATES,
P.C., RANDALL S. MILLER; WILLIAM
TRUDGEON, RONALD GLASER,
TROTT & TROTT, P.C., DONALD KING;
CRYSTAL PRICE, RYAN BARR, LETICIA
ARIAS, OCWEN LOAN SERVICING, LLC,
LITTON LOAN SERVICING, LLP,

NOTICE OF REMOVAL

Defendants,
Jointly and severally,

Rosemary West-Bowlson
Plaintiff, in pro per
17101 Anna Street
Southfield, Michigan 48075-2958
Southfield, Michigan 48075-2958
RWb4511@gmail.com

TROTT & TROTT, P.C.
By: Richard Welke (P44403)
Attorneys for Defendants
Trott & Trott, P.C., Donald King,
Crystal Price and Ryan Barr
31440 Northwestern Hwy., Ste. 200
Farmington Hills, Michigan 48334
(248) 723-5765
rwelke@trottlaw.com

TROTT & TROTT, P.C.
31440 NORTHWESTERN
HIGHWAY, SUITE 200
FARMINGTON HILLS, MI
48334-2525
PHONE: (248) 642-2515
FACSIMILE: (248) 205-4118

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1331, 1367(a), 1441(a) and 1446, the above-captioned action currently pending in the Circuit Court for the County of Oakland in the State of Michigan is hereby removed by Defendants, Trott & Trott, P.C., Donald King, Crystal Price and Ryan Barr (collectively “Trott” or “Trott Defendants”) to the United States District Court for the Eastern District of Michigan, by the filing of this Notice of Removal with the Clerk of the United States District Court for the Eastern District of Michigan. As grounds for removal, Trott states:

1. On September 11, 2014, Plaintiff filed a Complaint in the Circuit Court of Oakland County, State of Michigan, entitled *Rosemary West Bowlsen v Randall S. Miller and Associates, P.C., Randall S. Miller, William Trudgeon, Ronald Glaser, Trott & Trott, P.C., Donald King, Crystal Price, Ryan Barr, Leticia Arias, Ocwen Loan Servicing, LLC, Litton Loan Servicing, LLP*, Case No. 2014-142883-NZ (the “State Court Action”).

2. Trott received a copy of the Complaint (no summons) on September 17, 2014.

3. The undersigned has spoken with the offices of Randall Miller and attorney Schodeller indicated that the office has received a copy of the

Trott & Trott, P.C.
31440 Northwestern Highway, Suite 200
Farmington Hills, MI 48334-2525
Phone: (248) 642-2515
Facsimile: (248) 205-4118

Complaint on or about September 17, 2014 and that the Randall Miller Defendants (Randall S. Miller and Associates, P.C., Randall S. Miller, William Trudgeon, and Ronald Glaser) will consent to this removal.

4. Pursuant the State Court's Docket, **Exhibit A**, no appearances have been filed for any of the Defendants. Based on the Court's Docket and upon information and belief, no other Defendant has been properly served.

5. Pursuant to 28 U.S.C. § 1446(a), a complete copy of all process and pleadings filed in the State Court Action and received by Trott are attached hereto as **Exhibit B**.

6. Pursuant to 28 USC § 1446(b), this Notice of Removal is timely because it is being filed within 30 days after Trott's receipt of the Complaint.

7. This Court is in the district and division "embracing the place where [the State Court] action is pending." 28 U.S.C. § 1441(a).

8. Trott is removing this case based upon federal question and supplemental jurisdiction.

9. A copy of the written notice to Plaintiff and to the Oakland County Circuit Clerk required by 28 U.S.C. § 1446(d) is attached as **Exhibit C**, and will be filed in the State Court Action and served on Plaintiff upon the filing of this Notice of Removal.

Trott & Trott, P.C.
31440 Northwestern Highway, Suite 200
Farmington Hills, MI
48334-2525

PHONE: (248) 642-2515
FACSIMILE: (248) 205-4118

**FEDERAL QUESTION JURISDICTION EXISTS UNDER
28 U.S.C. § 1331**

10. This action is removable under 28 U.S.C. § 1441 because it is a civil action over which this Court has original jurisdiction based on the federal question raised by the Complaint. 28 U.S.C. § 1331.

11. Plaintiff alleges that the Defendants, collectively, including Trott violated the Federal Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, *et seq.*, by, in part, using false, misleading or unfair methods to collect a debt in violation of 15 U.S.C. § 1692e; communicating or threatening to communicate credit information which is known or should be known to be false in violation of 15 U.S.C. § 1692e(8); and failing to cease collection of a dispute debt until properly verified in violation of 15 U.S.C. § 1692g(b). (Exhibit B, Complaint, ¶¶ 113-115”) and the Real Estate Settlement Protection Act (RESPA), 12 U.S.C. § 2605 (Exhibit B, Complaint ¶¶ 128-129).

12. Because of a federal question is raised by the Complaint, this Court has original jurisdiction over this matter under 28 U.S.C. § 1331.

SUPPLEMENTAL JURISDICTION EXISTS UNDER 28 U.S.C. § 1367(a)

13. This Court also has supplemental jurisdiction over this matter pursuant to 28 U.S.C. § 1367(a), which provides:

Trott & Trott, P.C.
31440 Northwestern
Highway, Suite 200
Farmington Hills, MI
48334-2525
PHONE: (248) 642-2515
FACSIMILE: (248) 205-4118

(a) Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

28 U.S.C. §1367(a).

14. In addition to their claims under the FDCPA and RESPA, Plaintiff asserts state law claims “that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” For example, Plaintiff alleges violations of the Michigan Occupational Code and the Michigan Debt Collection Practices Act. (Complaint, ¶¶116-127) arising out of the Defendants’ handling of Plaintiff’s home loan, and the allegedly improper collection of debt relating to that loan. (Exhibit B, Complaint, *gen*). Because the state law claims are so related to the federal law claims under the FDCPA that they form part of the same case or controversy, this Court has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367(a). *Stroud v. Bank of Am., N.A.*, 2013 U.S. Dist. LEXIS 84340 (E.D. Mich. June 17, 2013); 28 U.S.C. § 1367(a) is attached hereto as **Exhibit D**.

Trott & Trott, P.C.
31440 Northwestern Highway, Suite 200
Farmington Hills, MI 48334-2525
Phone: (248) 642-2515
Facsimile: (248) 205-4118

15. This Notice of Removal, with Exhibits and a civil coversheet has been electronically filed and payment of the required filing fee has been made.

16. All properly joined Defendants who have been served must consent to removal. This is known as the "rule of unanimity", i.e., all defendants who have been served or otherwise properly joined in the action must either join in the removal or file a written consent to removal. *Callahan v Callahan*, 247 F. Supp 2d 935, 940 (S.D. Ohio, 2002). The rule of unanimity does not apply to Defendants who have not been served at the time of removal, *Shadie v. Aventis, Paseuer, Inc.*, 254 F.Supp.2d 509 (M.D. Pa. 2003).

17. The undersigned does not believe that Leticia Arias, Ocwen Loan Servicing, LLC and Litton Loan Servicing, LLP has been properly served as of the date of this removal.

18. If any questions arise as to the adequacy or propriety of the removal of this action, Trott request the opportunity to supplement the evidence submitted in support of this removal and/or to brief any disputed issues and present oral argument in support of its position that this case is properly removable.

19. The undersigned has read this Notice of Removal and to the best of the undersigned's knowledge, formed after reasonable inquiry, it is well-grounded in fact, is warranted by existing law and is not interposed for any

Trott & Trott, P.C.
31440 Northwestern
Highway, Suite 200
Farmington Hills, MI
48334-2525
Phone: (248) 642-2515
Facsimile: (248) 205-4118

improper purpose. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedures.

WHEREFORE, Defendants, Trott Defendants hereby remove the State Court Action from the Circuit Court for the County of Oakland, State of Michigan, to this Court, and request that the Court take jurisdiction of this civil action to the exclusion of any further proceedings in the State Court.

Dated: September 23, 2014

Respectfully Submitted,
Trott & Trott, P.C.

/s/ Richard Welke
Richard Welke
Attorneys for Defendants
Trott & Trott, P.C., Donald King,
Crystal Price and Ryan Barr
31440 Northwestern Highway, Suite 200
Farmington Hills, Michigan 48334
(248) 723-5765
rwelke@trottlaw.com
(P44403)

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2014, I caused to be electronically filed the foregoing papers with the Clerk of the Court using the ECF file and system, and mailed via First Class Mail a copy of same to:

Rosemary West-Bowlson
17101 Anna Street
Southfield, Michigan 48075-2958

Trott & Trott, P.C.
31440 Northwestern Highway, Suite 200
Farmington Hills, MI 48334-2525
Phone: (248) 642-2515
Facsimile: (248) 205-4118

Randall S. Miller, Esq.
Randall S. Miller & Associates PC
43252 Woodward Ave., Suite 180
Bloomfield Hills, Michigan 48302

Oakland County Circuit Court
Attn: Clerk of the Court
1200 N. Telegraph Rd.
Pontiac, Michigan 48341

Dated: September 23, 2014

Respectfully Submitted,
TROTT & TROTT, P.C.

/s/ Richard Welke

Richard Welke (P44403)
Attorney for Defendants
Bank of New York Mellon, as Trustee
and Bank of America, NA, only
31440 Northwestern Highway, Ste. 200
Farmington Hills, MI 48334
(248) 723-5765
rwelke@trottlaw.com

TROTT & TROTT, P.C.
31440 NORTHWESTERN
HIGHWAY, SUITE 200
FARMINGTON HILLS, MI
48334-2525
PHONE: (248) 642-2515
FACSIMILE: (248) 205-4118